UNITED NATIONS

General Assembly

FIFTIETH SESSION

Official Records

SIXTH COMMITTEE
33rd meeting
held on
Wednesday, 8 November 1995
at 3 p.m.
New York

SUMMARY RECORD OF THE 33rd MEETING

Chairman: Mr. CAMACHO (Ecuador)
(Vice-Chairman)

CONTENTS

AGENDA ITEM 145: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued)

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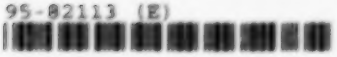
Distr. GENERAL
A/C.6/50/SR.33
4 December 1995
ENGLISH
ORIGINAL: FRENCH

95-82113 (E)



The meeting was called to order at 3.25 p.m.

AGENDA ITEM 145: REPORT OF THE SPECIAL COMMITTEE ON THE CHARTER OF THE UNITED NATIONS AND ON THE STRENGTHENING OF THE ROLE OF THE ORGANIZATION (continued) (A/50/33, A/50/361, A/50/403)

1. Mrs. SINJELA (Zambia) supported the proposal for the establishment of a permanent mechanism for consultations between the Security Council and third States potentially affected by the implementation of sanctions under Chapter VII of the Charter. Such consultations would give those countries the opportunity to evaluate the potential effects of sanctions and to consider more effective ways and means for addressing the special economic problems arising from sanctions implementation. They would also give the potentially affected countries the opportunity to explore alternative ways of sustaining their economies during sanctions, since the imposition of sanctions would not come as a sudden shock. Finally, consultations would give those States the opportunity to fully appreciate the reasons for the sanctions and would lead to a strengthening of the sanctions regime. Consultations were unlikely to influence the decisions of the Security Council or hamper its effectiveness.

2. Zambia also supported the setting up of a mechanism within the Secretariat to evaluate the possible effects of sanctions before they were imposed, with a view to mitigating them and to evaluating the level of assistance that should be given to adversely affected third States.

3. Concerning assistance to third States, Zambia supported the establishment of a fund that would provide compensation to such States. The fund would be supplemented by other sources of assistance, such as bilateral assistance. The involvement of international financial institutions through the creation of special windows of credit would not be a good solution because it would merely increase the indebtedness of those States to the financial institutions. Zambia, which had experienced the effects of sanctions imposed against the former Southern Rhodesia, now Zimbabwe, and which had undergone great hardship, was of the opinion that third States should be able to rely on identifiable resources for alleviating the negative impact of sanctions on their economies.

4. Zambia was pleased to note that the working group had completed the second reading of the text of the Model Rules for the Conciliation of Disputes between States, in the light of the amendments submitted by Guatemala. It supported the working group's recommendation that the General Assembly should bring the text of the Model Rules to the attention of Member States by annexing it to a decision or resolution to be adopted at that session.

5. The "enemy State" clauses of the Charter were now outdated, and should be removed according to the procedure set out in Article 108 of the Charter concerning amendments.

6. As for the composition of the Special Committee, Zambia supported the Committee's recommendation that it should be open to all Member States and that it should continue to take decisions by consensus.

7. Mrs. LADGHAM (Tunisia) said that it was important to examine all aspects of the question of assistance to third States affected by sanctions and to looking not only at ways of attenuating the negative effects of sanctions on their economies but also at ways of providing assistance to those countries. Thus the measures envisaged should fulfil two objectives: they should seek, before the imposition of sanctions, to evaluate the likely impact of sanctions with a view to minimizing them and, after the imposition of sanctions, to implement the provisions of Article 50 of the Charter.

8. Establishing a permanent mechanism for consultation between the Security Council and potentially affected third States would meet the first objective. Experience had shown that despite the provisions of Article 31 of the Charter, public meetings of the Security Council were held simply to confirm a decision already agreed upon. For that reason the formal meetings of the Council should be preceded by informal consultations; such consultations would lend themselves better to dialogue.

9. As for the implementation of Article 50, in the name of efficiency Tunisia was in favour of drawing up guidelines to be followed when examining requests for assistance. Economic assistance from international financial institutions was one option to be explored. It should, however, be remembered that such assistance was part of international economic cooperation; the latter had its own rules and generally came in the form of loans that, although on preferential terms, were nevertheless still loans. The proposal to create a fund financed from both assessed contributions and voluntary contributions merited support in so far as it should facilitate a more equitable treatment of requests for assistance.

10. Tunisia had two remarks concerning the functioning of the sanctions committees. The first concerned the monthly lists of communications addressed to the sanctions committees; those lists, which were currently available, should be distributed to Member States. The second concerned the summary records of the meetings of the committees; they should be distributed not only to the members of the Security Council. Tunisia agreed with those delegations which had said that the United Nations and the Security Council should make settling the issue of the functioning of the sanctions committees a priority. Other international organizations should not be prevented from contributing to those discussions, but their help could only be complementary.

11. Tunisia fully agreed with the consensus regarding the need to remove the outdated "enemy state" clauses of the Charter. It approved of the wording of the last paragraph of the draft resolution recommended for adoption by the General Assembly, which took into account the concerns of those delegations which felt that the question was not an urgent one, as well as those of delegations which felt, on the contrary, that the fiftieth anniversary of the Organization was the appropriate moment for beginning the amendment procedure.

12. Although his delegation would not object to opening the Special Committee to all Member States, it wondered what would be the purpose of such a decision, since participation in the Committee was not limited and its work was carried out with the greatest transparency.

13. Mr. MAZILU (Romania) said that although the provisions of the Charter should be fully respected, Article 50 should be the object of a functional interpretation. Indeed, if all Member States affected by the negative consequences of economic sanctions decided by the Security Council under Chapter VII of the Charter had the right to consult the Security Council, it was quite logical to presume that those consultations should lead to some practical solutions to the requests made by the States in question. In the general economy of the Charter, from a purely legal point of view, Article 50 was no different from other provisions of Chapter VII which were mandatory by their very nature. Once it was agreed that sanctions were mandatory, it was also necessary to devise practical measures to respond to requests for assistance from third States.

14. In that context, he noted with interest paragraph 41 of the Secretary-General's report entitled "An agenda for peace" which recommended that the Security Council should devise a set of measures involving the financial institutions and other components of the United Nations system. In his view such measures would be a matter of equity and a means of encouraging States to cooperate with the decisions of the United Nations Security Council. Such an approach would be justified both politically and historically. He recalled that one rebel regime had survived the imposition of sanctions for many long years. While companies from many countries were profiting from arms trafficking, companies in third countries affected by sanctions, like Romania, were losing billions of dollars. The sanctions against Iraq adopted by the Security Council in August 1990 and those against the former Yugoslavia imposed in 1991 and later supplemented, were still in effect. Appeals from affected third States had yet to be adequately answered. That was one of the reasons why Romania, along with Bulgaria, Greece, the Republic of Moldova and Ukraine had written a letter to the Secretary-General (A/50/189-S/1995/412) proposing several steps which the international community could undertake as a priority to alleviate the long-term negative impact of sanctions on the general economic and social situation in the affected States and, therefore, on regional security and stability.

15. The universal application of economic sanctions was certainly a necessity. Despite the considerable damage to its economy, Romania considered it the duty of all States to take action in a spirit of international solidarity by observing the resolutions adopted by the Security Council and implementing sanctions decided upon. The process should not, however, be a prolonged one leading to dramatic economic difficulties for third States. On the other hand, it would certainly be unrealistic to envisage a system of universal, total compensation for all countries affected by a boycott on economic relations with a particular State.

16. The economies of third countries were extremely vulnerable to universal application of sanctions. That was the situation of Romania at that time. In addition, it was faced not only by a series of problems of development but also by the obstacles it encountered in its transition to a market economy. Appropriate measures should be systematically taken in each case, in order to find practical and realistic solutions to those problems. Such measures could include: periodic evaluation of damages suffered by third States; introduction in the administration of sanctions regimes of an element of cost recovery from those making applications to a sanctions committee; specific resources for

alleviating the negative impact of sanctions on the economies of countries which carried the burden of sanctions implementation; and, finally, promotion of effective methods for addressing special economic problems arising from sanctions implementation.

17. His delegation supported the efforts undertaken by other delegations in the working group on the implementation of Article 50. Some of the working papers submitted contained interesting proposals regarding specific solutions for assistance to third States affected by the application of sanctions. He hoped that, through the collective wisdom and efforts of all delegations, it would be possible to find adequate responses to that important issue.

18. Mr. SANCHEZ (Spain), speaking on behalf of the European Union, said that it was aware of the special economic problems confronting certain States in carrying out preventive or enforcement measures decided upon by the Security Council against other States, and of the obligation on Members of the United Nations under the Charter of the United Nations to join in affording mutual assistance in carrying out such measures. The attention given by the European Union to that problem was not limited to verbal support; some States had benefited from substantial economic and humanitarian assistance provided by the European Community and the member States of the European Union. That included assistance specifically aimed at mitigating the adverse effects of sanctions.

19. Under Article 50 of the Charter, third States confronted with special economic problems of that nature had the right to consult the Security Council with regard to a solution. The European Union also wanted to stress that, in the formulation of sanctions regimes, due account should be taken, where possible, of the potential effects of sanctions on third States, without prejudice to the overall effectiveness of the sanctions regimes, to the powers of the Security Council under Chapter VII of the Charter and to the Council's primary responsibility under Article 24 of the Charter for the maintenance of international peace and security, in order to ensure prompt and effective action by the United Nations.

20. The European Union welcomed the measures taken by the Security Council to increase the effectiveness and transparency of the sanctions committees and considered that the Council must continue its efforts further to enhance the functioning of those committees, to streamline their working procedures and to facilitate access to them by representatives of third States affected by the application of sanctions regimes.

21. In the working group on the issue, the European Union had made the proposal that the Secretary-General, within existing resources, should be requested to provide the sanctions committees with the necessary means to ensure that they were able to carry out their work expeditiously and to create a focal point in the appropriate part of the Secretariat with the following functions: to collate, assess and analyse information on the effects of sanctions regimes in third States and on the resulting needs of third States, and to keep the Security Council and its organs informed; to provide advice to the Security Council and its organs on the specific needs or problems of third States so that, while maintaining the effectiveness of the sanctions regimes, appropriate adjustments might be made to the administration of the regimes or to the regimes

themselves, with a view to mitigating the effects on such States; to collate and coordinate information about international assistance available to third States, and to explore innovative measures of economic assistance, other than financial assistance, to third States through cooperation with institutions and organizations of the United Nations system.

22. The European Union was conscious of the importance of early consultations under Article 50 of the Charter with third States which might be confronted with special economic problems arising from implementation of economic measures imposed by the Security Council under Chapter VII of the Charter, as well as of early and regular assessment of the impact of those measures on such States. It also recognized the importance of taking into account, in international mechanisms of cooperation and of economic and financial assistance, matters connected with the implementation of sanctions imposed under Chapter VII of the Charter. It therefore invited the international financial institutions, other international organizations, regional organizations and Member States to continue to take into account and address more specifically, where appropriate, in their relations with third States affected by sanctions, the problems with which the latter were confronted as a result of sanctions imposed under Chapter VII of the Charter. For that purpose, a constructive dialogue with such States should be maintained, including through regular and frequent meetings, as well as, where appropriate, meetings with the participation of United Nations agencies and other international organizations.

23. Ms. WONG (New Zealand) said she was pleased that the Special Committee on the Charter had recommended that its membership should in future be open to all Member States of the United Nations. She was also pleased that, through Poland's efforts, a draft resolution had been drawn up relating to the deletion, at the earliest appropriate future session, of the "enemy States" clauses from the Charter.

24. The Special Committee had certainly made some significant contributions to the maintenance of international peace and security. However, it had occasionally been used as a convenient dumping ground for proposals that some found troublesome. It had thus become a twilight zone in which creativity and intellectual effort became trapped and extinguished. Accordingly, she welcomed some new ideas which were currently on the table, in particular the proposal by Sierra Leone for the establishment of a dispute settlement service that would offer or respond with its services early in disputes (A/48/398 and A/50/403). The proposal deserved the Special Committee's close consideration. Similarly, some interesting proposals had been made by the Russian Federation in its updated working paper A/AC.182/L.65/Rev.1. New Zealand was particularly attracted to the idea relating to the broadening of the Secretary-General's peacemaking efforts by recognizing the valid role he might play in submitting, on his own initiative, reports on individual issues relating to the maintenance of peace and security, including disarmament, for consideration by the Security Council. The Special Committee must also play a role, as suggested, in encouraging the Secretary-General to exercise more frequently his right under article 99 of the Charter to bring to the attention of the Security Council any matter which, in his opinion might threaten the maintenance of international peace and security, including serious economic and environmental problems and humanitarian emergencies.

25. She was also pleased to see that the good work on the draft Model Rules for Conciliation of Disputes between States had been concluded, and supported the draft resolution that had been tabled to bring the model rules to the attention of States.

26. Regarding the activities of the working group on the implementation of Charter provisions related to assistance to third States, she reiterated that it was important, in the interests of third States, to see the work of the sanctions committees professionalized and conducted in a transparent manner. They must be accountable to the wider membership of the United Nations, as well as to the Security Council. She believed it was important fully to implement the existing provisions under Articles 31 and 50 of the Charter which were of direct relevance to third States affected by sanctions. The application of those provisions and the rights of non-members of the Security Council to participate in its real discussions (which currently took place behind closed doors), and to consult the Security Council about economic problems resulting from sanctions, was important to ensure collective support by States for the Council's role in acting on behalf of all States in those matters.

27. Finally, she suggested that the bureau of the Special Committee should be appointed before the latter actually met. It was unsatisfactory that there was no focal point for consultations, between sessions, in the lead-up to a meeting of the Special Committee. She suggested that the Sixth Committee should invite the Special Committee to appoint a new bureau, either at the end of its annual meeting or during the Sixth Committee debate each year. That would ensure that a bureau was in place for a whole year and would provide useful continuity for the work throughout the year until the next meeting of the Sixth Committee.

28. Miss DAUGHY (Secretary of the Sixth Committee) announced that India had become a sponsor of draft resolution A/C.6/50/L.4.

The meeting rose at 4.15 p.m.